

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 07, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SCOTT W. HUMPHREYS,

Plaintiff,

v.

COYOTE RIDGE
SUPERINTENDENT, DANUNNLE
AMBRUSTER, LARLINE, DEAN
BANKING, JESSICA TAVARES, RS
WILLS, SERIOUS, A.A. SIMPSON,
MAIL ROOM, MAIL ROOM
RESOLUTIONIST, LEVI C. DEAN,
REFER TO DIGITAL RECORDS,
OPTOMERY SCCC, and COYOTE
RIDGE,

Defendants.

No. 4:23-cv-05052-RMP

ORDER DENYING LEAVE TO
PROCEED *IN FORMA PAUPERIS*
AND DISMISSING ACTION

On May 1, 2023, the Court directed Plaintiff Scott W. Humphreys, a *pro se* prisoner at the Coyote Ridge Corrections Center, to show cause why the Court should grant his application to proceed *in forma pauperis*. ECF No. 9 at 4. In the alternative, Plaintiff could have paid the \$402.00 filing fee. *Id.*

ORDER DENYING LEAVE TO PROCEED *IN FORMA PAUPERIS* AND
DISMISSING ACTION -- 1

1 On May 31, 2023, Plaintiff filed a construed Response to the Order to Show
2 Cause (“OSC”). ECF No. 10. After careful review of Plaintiff’s submission, the
3 Court finds that Plaintiff has failed to demonstrate that he was under imminent
4 danger of serious physical injury when he initiated this case, and is thus precluded
5 under 28 U.S.C. § 1915(g) from proceeding in this action without prepayment of
6 the filing fee. *See O’Neal v. Price*, 531 F.3d 1146, 1153 (9th Cir. 2008).

7 Plaintiff’s construed OSC Response is difficult to decipher. He does not
8 appear to dispute the Court’s finding that he filed three or more actions while a
9 prisoner that were dismissed as frivolous, malicious or for failure to state a claim
10 upon which relief may be granted. *See* ECF No. 9 at 2–3. Further, he does not
11 appear to assert that he was under “imminent danger of serious physical injury”
12 when he filed his complaint on April 19, 2023. *See* 28 U.S.C. § 1915(g); *Andrews*
13 *v. Cervantes*, 493 F.3d 1047, 1055–56 (9th Cir. 2007); *see also Ray v. Lara*, 31
14 F.4th 692, 701 (9th Cir. 2022) (holding that “the imminent danger exception to the
15 PLRA three-strikes provision requires a nexus between the alleged imminent
16 danger and the violations of law alleged in the complaint.”).

17 Liberally construing his assertions in the light most favorable to Plaintiff, the
18 Court finds that he has failed to overcome the preclusive effects of 28 U.S.C. §
19 1915(g). Because Plaintiff did not avail himself of the opportunity to pay the
20 \$402.00 filing fee, he may not proceed with this action.

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Plaintiff's application to proceed *in forma pauperis*, **ECF No. 3**, is

3 **DENIED.**

4 2. This action is **DISMISSED WITHOUT PREJUDICE** for non-
5 payment of the filing fee as required by 28 U.S.C. § 1914.

6 3. The District Court Clerk shall **CLOSE** the file.

7 4. The Court certifies that any appeal of this dismissal would not be
8 taken in good faith.

9 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
10 Order, enter judgment, and provide copies to Plaintiff.

11 **DATED** June 7, 2023.

12
13 s/ Rosanna Malouf Peterson
14 ROSANNA MALOUF PETERSON
15 Senior United States District Judge
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